

1 AMENDMENT TO SENATE BILL 706

2 AMENDMENT NO. _____. Amend Senate Bill 706 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Secretary of State Act is amended by
5 adding Section 14 as follows:

6 (15 ILCS 305/14 new)

7 Sec. 14. Inspector General.

8 (a) The Secretary of State must, with the advice and
9 consent of the Senate, appoint an Inspector General for the
10 purpose of detection, deterrence, and prevention of fraud,
11 corruption, mismanagement, gross or aggravated misconduct, or
12 misconduct that may be criminal in nature in the Office of
13 the Secretary of State. The Inspector General shall serve a
14 5-year term. If no successor is appointed and qualified upon
15 the expiration of the Inspector General's term, the Office of
16 Inspector General is deemed vacant and the powers and duties
17 under this Section may be exercised only by an appointed and
18 qualified interim Inspector General until a successor
19 Inspector General is appointed and qualified. If the General
20 Assembly is not in session when a vacancy in the Office of
21 Inspector General occurs, the Secretary of State may appoint
22 an interim Inspector General whose term shall expire 2 weeks

1 after the next regularly scheduled session day of the Senate.

2 (b) The Inspector General shall have the following
3 qualifications:

4 (1) has not been convicted of any felony under the
5 laws of this State, another State, or the United States;

6 (2) has earned a baccalaureate degree from an
7 institution of higher education; and

8 (3) has either (A) 5 or more years of service with
9 a federal, State, or local law enforcement agency, at
10 least 2 years of which have been in a progressive
11 investigatory capacity; (B) 5 or more years of service as
12 a federal, State, or local prosecutor; or (C) 5 or more
13 years of service as a senior manager or executive of a
14 federal, State, or local agency.

15 (c) The Inspector General may review, coordinate, and
16 recommend methods and procedures to increase the integrity of
17 the Office of the Secretary of State. The duties of the
18 Inspector General shall supplement and not supplant the
19 duties of the Chief Auditor for the Secretary of State's
20 Office or any other Inspector General that may be authorized
21 by law. The Inspector General must report directly to the
22 Secretary of State.

23 (d) In addition to the authority otherwise provided by
24 this Section, but only when investigating the Office of the
25 Secretary of State, its employees, or their actions for
26 fraud, corruption, mismanagement, gross or aggravated
27 misconduct, or misconduct that may be criminal in nature, the
28 Inspector General is authorized:

29 (1) To have access to all records, reports, audits,
30 reviews, documents, papers, recommendations, or other
31 materials available that relate to programs and
32 operations with respect to which the Inspector General
33 has responsibilities under this Section.

34 (2) To make any investigations and reports relating

1 to the administration of the programs and operations of
2 the Office of the Secretary of State that are, in the
3 judgement of the Inspector General, necessary or
4 desirable.

5 (3) To request any information or assistance that
6 may be necessary for carrying out the duties and
7 responsibilities provided by this Section from any local,
8 State, or federal governmental agency or unit thereof.

9 (4) To require by subpoena the appearance of
10 witnesses and the production of all information,
11 documents, reports, answers, records, accounts, papers,
12 and other data and documentary evidence necessary in the
13 performance of the functions assigned by this Section,
14 with the exception of subsection (c) and with the
15 exception of records of a labor organization authorized
16 and recognized under the Illinois Public Labor Relations
17 Act to be the exclusive bargaining representative of
18 employees of the Secretary of State, including, but not
19 limited to, records of representation of employees and
20 the negotiation of collective bargaining agreements. A
21 subpoena may be issued under this paragraph (4) only by
22 the Inspector General and not by members of the Inspector
23 General's staff. A person duly subpoenaed for testimony,
24 documents, or other items who neglects or refuses to
25 testify or produce documents or other items under the
26 requirements of the subpoena shall be subject to
27 punishment as may be determined by a court of competent
28 jurisdiction, unless (i) the testimony, documents, or
29 other items are covered by the attorney-client privilege
30 or any other privilege or right recognized by law or (ii)
31 the testimony, documents, or other items concern the
32 representation of employees and the negotiation of
33 collective bargaining agreements by a labor organization
34 authorized and recognized under the Illinois Public Labor

1 Relations Act to be the exclusive bargaining
2 representative of employees of the Secretary of State.
3 Nothing in this Section limits a person's right to
4 protection against self-incrimination under the Fifth
5 Amendment of the United States Constitution or Article I,
6 Section 10, of the Constitution of the State of Illinois.

7 (5) To have direct and prompt access to the
8 Secretary of State for any purpose pertaining to the
9 performance of functions and responsibilities under this
10 Section.

11 (e) The Inspector General may receive and investigate
12 complaints or information from an employee of the Secretary
13 of State concerning the possible existence of an activity
14 constituting a violation of law, rules, or regulations;
15 mismanagement; abuse of authority; or substantial and
16 specific danger to the public health and safety. Any
17 employee who knowingly files a false complaint or files a
18 complaint with reckless disregard for the truth or the
19 falsity of the facts underlying the complaint may be subject
20 to discipline as set forth in the rules of the Department of
21 Personnel of the Secretary of State.

22 The Inspector General may not, after receipt of a
23 complaint or information from an employee, disclose the
24 identity of the employee without the consent of the employee,
25 unless the Inspector General determines that disclosure of
26 the identity is reasonable and necessary for the furtherance
27 of the investigation.

28 Any employee who has the authority to recommend or
29 approve any personnel action or to direct others to recommend
30 or approve any personnel action may not, with respect to that
31 authority, take or threaten to take any action against any
32 employee as a reprisal for making a complaint or disclosing
33 information to the Inspector General, unless the complaint
34 was made or the information disclosed with the knowledge that

1 it was false or with willful disregard for its truth or
2 falsity.

3 (f) The Inspector General must adopt rules, in
4 accordance with the provisions of the Illinois Administrative
5 Procedure Act, establishing minimum requirements for
6 initiating, conducting, and completing investigations. The
7 rules must establish criteria for determining, based upon the
8 nature of the allegation, the appropriate method of
9 investigation, which may include, but is not limited to, site
10 visits, telephone contacts, personal interviews, or requests
11 for written responses. The rules must also clarify how the
12 Office of the Inspector General shall interact with other
13 local, State, and federal law enforcement investigations.

14 Any employee of the Secretary of State subject to
15 investigation or inquiry by the Inspector General or any
16 agent or representative of the Inspector General concerning
17 misconduct that is criminal in nature shall have the right to
18 be notified of the right to remain silent during the
19 investigation or inquiry and the right to be represented in
20 the investigation or inquiry by an attorney or a
21 representative of a labor organization that is the exclusive
22 collective bargaining representative of employees of the
23 Secretary of State. Any investigation or inquiry by the
24 Inspector General or any agent or representative of the
25 Inspector General must be conducted with an awareness of the
26 provisions of a collective bargaining agreement that applies
27 to the employees of the Secretary of State and with an
28 awareness of the rights of the employees as set forth in
29 State and federal law and applicable judicial decisions. Any
30 recommendations for discipline or any action taken against
31 any employee by the Inspector General or any representative
32 or agent of the Inspector General must comply with the
33 provisions of the collective bargaining agreement that
34 applies to the employee.

1 (g) On or before January 1 of each year, the Inspector
 2 General shall report to the President of the Senate, the
 3 Minority Leader of the Senate, the Speaker of the House of
 4 Representatives, and the Minority Leader of the House of
 5 Representatives on the types of investigations and the
 6 activities undertaken by the Office of the Inspector General
 7 during the previous calendar year.

8 Section 10. The Secretary of State Merit Employment Code
 9 is amended by changing Section 16 as follows:

10 (15 ILCS 310/16) (from Ch. 124, par. 116)

11 Sec. 16. Status of present employees. Employees holding
 12 positions in the Office of the Secretary of State herein
 13 shall continue under the following conditions:

14 (1) Employees who have been appointed as the result of
 15 having passed examinations in accordance with the provisions
 16 of the "Personnel Code", and who have satisfactorily passed
 17 the probationary period or who have been promoted in
 18 accordance with the rules thereunder, shall be continued
 19 without further examination, but shall be otherwise subject
 20 to provisions of this Act and the rules made pursuant to it.

21 (2) Employees who have been appointed as the result of
 22 having passed examinations pursuant to the provisions of the
 23 "Personnel Code" but have not completed their probationary
 24 period on the effective date of this Act shall be continued
 25 without further examination but shall be otherwise subject to
 26 provisions of this Act and the rules made pursuant to it.
 27 Time served on probation prior to the effective date of this
 28 Act shall count as time served on the probationary period
 29 provided by this Act.

30 (2.5) Persons who, immediately before the effective date
 31 of this amendatory Act of the 93rd General Assembly, were
 32 employees with investigatory functions of the Inspector

1 General within the Office of the Secretary of State and who
2 are subject to the Secretary of State Merit Employment Code
3 shall be appointed to the position of inspector, as described
4 in Section 14 of the Secretary of State Act, if they: (i)
5 meet the requirements described in Section 14 of the
6 Secretary of State Act; (ii) pass a qualifying examination as
7 prescribed by the Director of Personnel within 6 months after
8 the effective date of this amendatory Act of the 93rd General
9 Assembly; and (iii) satisfactorily complete their respective
10 probationary periods. The qualifying examination for
11 inspectors shall be similar to those required for entrance
12 examinations for comparable positions in the Office of the
13 Secretary of State. Inspectors shall be appointed without
14 regard to eligible lists. Nothing in this subsection
15 precludes the Office of the Secretary of State from
16 reclassifying or reallocating employees who would otherwise
17 qualify as inspectors.

18 (3) All other such employees subject to the provisions
19 of this Act shall be continued in their respective positions
20 if they pass a qualifying examination prescribed by the
21 Director within 9 months from the effective date of this Act,
22 and satisfactorily complete their respective probationary
23 periods. Such qualifying examinations shall be similar to
24 those required for entrance examinations for comparable
25 positions in the Office of the Secretary of State.
26 Appointments of such employees shall be without regard to
27 eligible lists. Nothing herein precludes the
28 reclassification or reallocation as provided by this Act of
29 any position held by such incumbent.

30 (4) Nothing in this Act shall be construed to prejudice,
31 reduce, extinguish or affect the rights or privileges
32 determined through judicial process to have been conferred on
33 any present or past employee under the Illinois Personnel
34 Code. In the event that any court of competent jurisdiction

1 shall determine that present or past employees of the
2 Secretary of State have any rights arising from the Illinois
3 Personnel Code, those rights shall be recognized under this
4 Act.

5 (5) Any person who, as a result of any court order,
6 court approved stipulation or settlement, has any employment
7 or re-employment rights prior to the effective date of this
8 Act shall continue to have such rights after the effective
9 date of this Act.

10 (Source: P.A. 80-13.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law."